

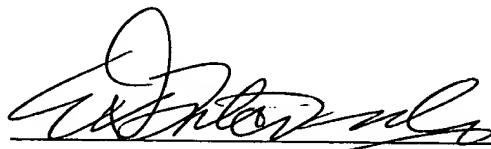


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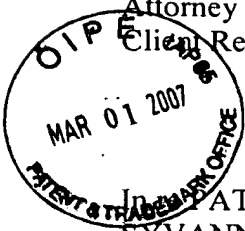
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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) | |
|---|--|--|-----------------------|
| <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p> | | Application Number | Filed |
| | | 09/988,355 | November 19, 2001 |
| | | First Named Inventor | |
| | | TUOMO SYVANNE | |
| | | Art Unit | Examiner |
| | | 2134 | Brown, Christopher J. |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> | | | |
| <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. 46463 Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> | | <p> _____ Signature</p> <p>William D. Titcomb _____ Typed or printed name</p> <p>703.770.7847 _____ Telephone number</p> <p>March 1, 2007 _____ Date</p> | |
| <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> | | | |
| <p><input type="checkbox"/> *Total of _____ forms are submitted.</p> | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket: 060258-0284126
Client Reference: 2011374US/A/KP



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In PATENT APPLICATION of: TUOMO
SYVANNE

Confirmation Number: 8357

Application No.: 09/988,355

Group Art Unit: 2134

Filed: November 19, 2001

Examiner: Brown, Christopher J.

Title: A PERSONAL FIREWALL WITH LOCATION DETECTION

Remarks Supporting Request for Pre-Appeal Brief Conference

Summary

The subject application is currently finally rejected (See, Final Rejection, mail date 9-1-2006). The Applicant has made numerous attempts to overcome the Examiner's basis for the Final Rejection, that is, the primary reference's provisional application –filing date (60/308,498, filed 7-27-2001, Freund et al. (hereinafter Freund-provisional). Applicant successfully removed the utility application of the Freund-provisional as prior art (10/003,161, filed 11-14-2001, Freund et al. (hereinafter Freund-utility), based in part, on the above provisional, by submitting a Declaration under 37 CFR 1.132 that swears behind the utility filing date but not the provisional filing date.

Applicant has attempted to overcome the Examiner's reliance on the Freund-provisional, focusing upon the lack of content, i.e., shortcomings of the Freund-provisional's disclosure in response to the Examiner's arguments found within the sections of the Freund-provisional that were directly applied by the Examiner. Insofar as any support may be found for the Freund-utility from the Freund-provisional; Applicant respectfully asserts that the Freund-utility should be treated as a Continuation-in-Part of the Freund-provisional. Applicant respectfully asserts that the Examiner has improperly, inferentially read content from the Freund-utility into the Freund-provisional, and has relied upon this inferential reasoning to maintain the Final Rejection. The Freund-provisional does not support the Examiner's arguments, and accordingly can not be relied upon for support of the Final Rejection.

Applicant's Request

Appellant hereby requests that a panel of examiners formally review the legal and factual basis of the rejections in the above-identified application prior to the filing of an appeal brief. Appellant asserts that the outstanding rejection (now on appeal by virtue of the concurrently filed Notice of Appeal) is clearly improper based both upon errors in facts and the omission of essential elements required to establish a prima facie rejection.

The September 1, 2006 Final Rejection

The September 1, 2006 Final Rejection was issued by the Examiner and contained a statement that although the Freund-utility filing date was successfully sworn behind, the Examiner now relies upon the Freund-provisional, since the Examiner asserts “the provisional application fully supports US application 2003/0167405 [Freund-utility]”. See, Final Rejection, page 2. In the Final Rejection, the Examiner further relies on several other paragraphs of the Freund-utility, namely [0096], [0097], [0138], [0142], [0078], [0017], [0141], but the Examiner fails to show where these paragraphs are supported in the Freund-provisional.

The January 8, 2007 Advisory Action

The January 8, 2007 Advisory Action was issued by the Examiner following a Request for Reconsideration. The reason relied upon by the Examiner in the Advisory Action for not placing the case in condition for allowance was that “the provisional application fully supports US application 2003/0167405 [Freund-utility]”. See, Advisory Action, Continuation sheet.

Specifically, the Examiner indicated that support for paragraph [0080] of the Freund-utility is found on page 6, lines 30-36 of the Freund-provisional, and support for paragraphs [0073] and [0095] can be found on page 9, lines 5-15, and 33 of the Freund-provisional.

In addition, the Examiner restates Applicant’s argument, in part, “that Freund [utility] does not teach monitoring or determining the location of the personal firewall based on an IP address currently used by the computer terminal;” however “the Examiner asserts Freund [utility] does teach the limitations.”

Again, Applicant respectfully asserts that the Examiner is improperly inferring content, allegedly found within the utility, into the provisional. Accordingly, we traverse the outstanding rejection. In particular, paragraph [0080] of Freund-utility relates to use of a firewall API 335 for dynamic configuration of firewall 350 for different zones. In other

words, it provides a programming interface through which the engine 334 can configure the firewall. There is no teaching as to how detecting and distinguishing between different networks is implemented, and particularly no teaching that detecting and distinguishing is implemented by an IP address.

In fact, page 6, lines 30-36 of the Freund-provisional application does not describe a firewall API at all. Instead, page 6, generalizes an example of a prior art arrangement wherein "Alice's home network" is configured as a trusted zone which includes "Alice's computers LC1, PC1 and PC2." This generalization, which describes prior art, provides no support for paragraph [0080] of the Freund-utility, which describes the implementation of the Freund-utility.

In the Advisory Action, the Examiner further alleges that support for [0073] and [0095] of Freund-utility is found on page 9, lines 5-15, and 33 of the provisional application. However, paragraph [0073] of Freund-utility discloses only a desire to have an ability to detect and distinguish and to apply different security settings depending on which network the device is connected to at that time.

Also, page 9, lines 5-15, and 33 of the Freund-provisional generalizes the same desire but makes no teaching on implementation.

Additionally, neither paragraph [0073] of the Freund-utility, nor page 9, lines 5-15, and 33 of the Freund-provisional mentions any teaching as to how detecting and distinguishing between different networks is implemented and, particularly, any teaching that detecting and distinguishing is implemented by an IP address.

Paragraph [0095] of the Freund-utility discloses FIG. 4 as a flow chart illustrating detailed method steps of the operations of the network detection and a firewall reconfiguration system. Initially, the system starts with no knowledge of any connected networks or adapters. At step 401, the engine constructs an initial list of adapters and networks to which these adapters are connected by obtaining information through the OS network information API and the associated operating system kernel facility to discover that an adapter has been added or removed or an adapter's network configuration has changed.

Further, page 9, lines 5-15 and 33 of the Freund-provisional do not provide support for paragraph [0095] of the Freund-utility. Moreover, page 9, lines 5-15, and 33 of the Freund-provisional does not teach how detecting and distinguishing between different networks is implemented, and clearly fails to teach that detecting and distinguishing is implemented by an IP address.

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Thus, the sections of the Freund-provisional to which the Examiner relies upon fail to support the Examiner's allegation that the specific paragraphs of the Freund-utility teach determining the current location of the firewall based on an IP address. Accordingly, the rejection is improper and should be withdrawn.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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